

In the High Court of Punjab and Haryana, at Chandigarh.

Criminal Revision No. 1230 of 1999

Date of Decision: 6.3.2009

Jai Pal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA.

Present: Mr. Anhol Singh, Advocate
for the petitioner.

Mr. S.S. Mor, Senior Deputy Advocate
General, Haryana, for the State.

Kanwaljit Singh Ahluwalia, J. (Oral)

Petitioner Jai Pal son of Parma Nand, was nominated as accused in case FIR No. 109 dated 6.6.1992 registered at Police Station Pataudi, under Sections 279, 337, & 304-A IPC.

The FIR was lodged on basis of statement Ex.PA made by Jagdish son of Parbhati, complainant, before Balbir Singh, Assistant Sub Inspector on 6.6.1992. It has been stated by Jagdish that he along with his niece Poonam came to bus stand of village Faijabad for taking a bus for Jamalpur at about 10.30 A.M. When they were standing with Rattan Singh of village Jaitpur, on kacha berm of the road, a bus of Haryana Roadways bearing registration No. HYN 2598 being driven by accused/petitioner Jaipal Singh came at very high speed from the side of Rewari, and hit his niece Poonam on kacha berm. Due to this,

Poonam fell down and she died at the spot on account of injuries received on her head. He further stated that the driver of the said bus had stopped the bus at a distance of 50 yards from the place of accident. He further stated that the accident had taken place on account of rash and negligent driving of the petitioner.

Trial Court examined witnesses Rattan Singh son of Chand Singh as PW.1, Jagdish son of Parbhati, complainant, as PW.2, Gurdial Singh, Constable, as PW.3, Des Raj Mechanic of Haryana Roadways as PW.4, Azad Kumar as PW.5 and Dr. S.K. Sharma as PW.6.

Trial Court found prosecution version to be probable, natural and convincing.

Petitioner was convicted and sentenced to undergo ten months simple imprisonment under Section 304-A IPC. Besides this, petitioner was also convicted under Sections 279 & 337 IPC and was also sentenced to undergo one month simple imprisonment, respectively. All the sentences were ordered to run concurrent.

Petitioner had filed an appeal. The appeal was dismissed by the Court of Additional Sessions Judge, Gurgaon. However, the lower Appellate Court held that the petitioner cannot be held guilty for the offence under Section 337 IPC as there being no charge against the petitioner for the said offence. However, sentence awarded upon the petitioner under Sections 279 & 304-A IPC was maintained.

Counsel for the petitioner has stated that he is conscious of the fact that the findings of the two Courts below on the facts of the case are based upon appreciation of evidence. Counsel has further submitted that he is aware of the limitations of the revisional Court as no re-

appraisal or re-appreciation of the evidence can be undertaken by this Court. No patent illegality or irregularity has been pointed out.

Counsel for the petitioner, in the alternative, has submitted that in the present case, occurrence had taken place in the year 1992 and the petitioner has suffered a protracted trial for more than 16 years. He further stated that the petitioner has already undergone ten days of his actual sentence. Counsel further submits that family of the deceased can be compensated.

I have considered the submission made by counsel for the petitioner. It was also submitted by counsel for the petitioner that in the last more than 16 years, petitioner has committed no offence. To send the petitioner behind the bars after more than 16 years may not be justifiable. Protracted trial may be construed as mitigating circumstance. At the same time, family of the deceased is required to be compensated. Some monetary help to the family of the deceased can be provided.

Accordingly, sentence of the petitioner is reduced to already undergone. However, sentence of fine is enhanced to Rs.35,000/-. The amount of fine shall be paid as compensation to the family of the deceased. Fine be deposited within three months from the receipt of certified copy of order. In case, the fine is not deposited, the benefit of reduction of sentence shall not accrue to the petitioner.

With the observations made above, the present petition is disposed off.

(Kanwaljit Singh Ahluwalia)
Judge

March 6, 2009
“DK”